

§§ 80.618–80.619 [Reserved]

PROVISIONS FOR FOREIGN REFINERS AND IMPORTERS FOR MOTOR VEHICLE DIESEL FUEL SUBJECT TO A TEMPORARY COMPLIANCE OPTION OR HARDSHIP PROVISION

**§ 80.620 What are the additional requirements for diesel fuel or distillates produced by foreign refineries subject to a temporary refiner compliance option, hardship provisions, or motor vehicle or NRLM diesel fuel credit provisions?**

(a) *Definitions.* (1) A foreign refinery is a refinery that is located outside the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (collectively referred to in this section as “the United States”).

(2) A foreign refiner is a person who meets the definition of refiner under § 80.2(i) for a foreign refinery.

(3) A diesel fuel program foreign refiner (“DFR”) is a foreign refiner that has been approved by EPA for participation in any motor vehicle diesel fuel or NRLM diesel fuel provision of § 80.530 through 80.533, or §§ 80.535, 80.536, 80.540, 80.552, 80.553, 80.554, 80.560 or 80.561 (collectively referred to as “diesel foreign refiner program”).

(4) “DFR-Diesel” means diesel fuel or distillate fuel as applicable under subpart I of this part produced at a DFR refinery that is imported into the United States.

(5) “Non-DFR-Diesel” means diesel fuel or distillate fuel that is produced at a foreign refinery that has not been approved as a DFR foreign refiner, diesel fuel produced at a DFR foreign refinery that is not imported into the United States, and diesel fuel produced at a DFR foreign refinery during a period when the foreign refiner has opted to not participate in the DFR-Diesel foreign refiner program under paragraph (c)(3) of this section.

(6) “Certified DFR-Diesel” means DFR-Diesel the foreign refiner intends to include in the foreign refinery’s compliance calculations under any provisions of § 80.530 through 80.533, or §§ 80.535, 80.536, 80.540, 80.552, 80.553, 80.554, 80.560 or 80.561 and does include

in these compliance calculations when reported to EPA.

(7) “Non-Certified DFR-Diesel” means DFR-Diesel fuel that a DFR foreign refiner imports to the United States that is not Certified DFR-Diesel.

(b) *Baseline.* For any foreign refiner to obtain approval under the diesel foreign refiner program of this subpart for any refinery, it must apply for approval under the applicable provisions of this subpart. To obtain approval the refiner is required, as applicable, to demonstrate a volume baseline under subpart I of this part.

(1) The refiner shall follow the procedures, applicable to volume baselines and using diesel fuel, or if applicable, heating oil, instead of gasoline, in §§ 80.91 through 80.93 to establish the volume of motor vehicle diesel fuel that was produced at the refinery and imported into the United States during the applicable years for purposes of establishing a baseline under Subpart I for applicable fuels produced for use in the United States.

(2) In making determinations for foreign refinery baselines EPA will consider all information supplied by a foreign refiner, and in addition may rely on any and all appropriate assumptions necessary to make such determinations.

(3) Where a foreign refiner submits a petition that is incomplete or inadequate to establish an accurate baseline, and the refiner fails to correct this deficiency after a request for more information, EPA will not assign an individual refinery baseline.

(c) *General requirements for DFR foreign refineries.* A foreign refiner of a refinery that is approved under the diesel foreign refiner program of this subpart must designate each batch of diesel fuel produced at the foreign refinery that is exported to the United States as either Certified DFR-Diesel or as Non-Certified DFR-Diesel, except as provided in paragraph (c)(3) of this section. It must further designate all Certified DFR-Diesel as provided in § 80.598, and designate whether the diesel fuel is dyed or undyed, and for heating oil and/or locomotive or marine diesel fuel whether it is marked or unmarked under § 80.510(d) through (f). It